

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.Nos.27915 and 27916 of 2007

-

Between:

Smt.Boyina Jyothi.

.. PETITIONER

and

The District Collector and others.

.. RESPONDENTS

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.Nos.27915 and 27916 of 2007

-

COMMON ORDER:

-

Since similar questions that arise for consideration in these writ petitions, they are being taken up together for disposal by way of common order.

The petitioner in W.P.No.27915 of 2007 purchased the land admeasuring Ac.4-00 cents in Sy.No.375/2 situated at Kappullappalapadu Village, Bheemunipatnam Mandal, Visakhapatnam District, through registered Sale Deed, dated 02-12-2002 from one Sri Goshetti Rajulu, an Ex-serviceman. The said land was assigned in favour of the vendor of the petitioner vide D.R.No.237/1402, dated 29-11-1982, under Ex-serviceman quota. From the date of purchase, the petitioner is in possession and enjoyment of the said land. While so, when respondents 2 and 3 herein made an attempt to interfere with the peaceful possession and enjoyment of the said land, the petitioner made a representation before the District Collector, Visakapatnam, on 20-12-2007.

The petitioner in W.P.No.27916 of 2007 purchased the land admeasuring Ac.5-00 cents in Sy.No.383/1 situated at Kappullappalapadu Village, Bheemunipatnam Mandal, Visakhapatnam District, through registered Sale Deed, dated 02-12-2002 from one Sri Thokada Tata, an Ex-serviceman. The said land was assigned in favour of the vendor of the petitioner vide D.R.No.226/1402, dated 20-06-1993, under Ex-serviceman quota. From the date of purchase, the petitioner is in possession and enjoyment of the said land. While so, when respondents 2 and 3 herein made an attempt to interfere with the peaceful possession and enjoyment of the said land, the petitioner made a representation before the District Collector, Visakapatnam, on 20-12-2007.

Learned counsel appearing for the 2nd respondent as well as the learned Government Pleader for Revenue appearing for respondents 1 and 3 submit that the vendors of the petitioners namely Goshetti Rajulu and Thokada Tata along with two others filed W.P.No.4101 of 2005 before this Court seeking similar relief that the 2nd respondent herein was interfering with

the peaceful possession and enjoyment of the lands. The District Collector as well as the Mandal Revenue Officer are also parties to the said writ petition. After filing counter, the said writ petition was disposed of along with another writ petition i.e., W.P.No.17166 of 2006. In the counter filed in the above said writ petition, the alleged assignment made in favour of the vendors of the petitioners itself is disputed contending that no such assignment was made in favour of the vendors of the petitioners and the assignment pattas granted in favour of the vendors of the petitioners are forged and not genuine. Accordingly, the said writ petition was disposed of on 11-10-2007 directing the Mandal Revenue Officer, Bheemunipatnam, to conduct an enquiry after giving reasonable opportunity to the petitioners and decide as to whether the proceedings relied on by the petitioners therein, relating to the assignment of the lands, are genuine or not and if they are not genuine, the petitioners therein are not entitled for any relief.

Admittedly, W.P.No.4101 of 2005 was disposed of after filing counter. In fact, the petitioners cannot get better title than their vendors. Further, the so-called assignment itself is under enquiry. However, in W.P.No.4101 of 2005 it was contended that the possession was already handed over to VUDA. Therefore, I am of the opinion that unless enquiry is completed, no relief can be granted to the petitioners. However, it is open for the petitioners to file objections before the 3rd respondent seeking permission to participate in the enquiry proceedings.

Having regard to the facts and circumstances of the case, the writ petitions are disposed of directing the 3rd respondent to decide the matter as directed by this court in W.P.No.4101 of 2005, dated 11-10-2007, as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order. However, in the enquiry, if the assignment proceedings are found to be genuine, the respondents shall restore possession in favour of the vendors of the petitioners as well as the petitioners. There shall be no order as to costs.

28-12-2007

Prv